



**DEPARTMENT OF TRANSPORTATION**

**[4910-EX-P]**

**Federal Motor Carrier Safety Administration**

**[Docket No. FMCSA-2016-0025]**

**Qualification of Drivers; Exemption Applications; Vision**

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice of applications for exemptions; request for comments.

**SUMMARY:** FMCSA announces receipt of applications from 11 individuals for exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. If granted, the exemptions would enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce.

**DATES:** Comments must be received on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. All comments will be investigated by FMCSA. The exemptions will be issued the day after the comment period closes.

**ADDRESSES:** You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA-2016-0025 using any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the on-line instructions for submitting comments.

- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Fax: 1-202-493-2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to <http://www.regulations.gov> at any time or Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

**FOR FURTHER INFORMATION CONTACT:** Christine A. Hydock, Chief, Medical Programs Division, (202) 366-4001, fmcsamedical@dot.gov, FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE, Room W64-113, Washington, DC 20590-0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds “such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.” FMCSA can renew exemptions at the end of each 2-year period. The 11 individuals listed in this notice have each requested such an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting an exemption will achieve the required level of safety mandated by statute.

**II. Qualifications of Applicants**

Jose R. Arroyo

Mr. Arroyo, 46, has had corneal opacity in his right eye since childhood. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2015, his optometrist stated, "He had no color defects and in my medical opinion he is able to safely operate a commercial vehicle based in [sic] his

vision." Mr. Arroyo reported that he has driven straight trucks for 12 years, accumulating 540,000 miles. He holds a Class C operator's license from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Ronald H. Carey

Mr. Carey, 54, has had decreased vision in his right eye since 2011. The visual acuity in his right eye is 20/200, and in his left eye, 20/25. Following an examination in 2016, his optometrist stated, "In my medical opinion Ronald has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Carey reported that he has driven straight trucks for 2 years, accumulating 150,000 miles and tractor-trailer combinations for 27 years, accumulating 1.65 million miles. He holds a Class AM CDL from Pennsylvania. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Valentin S. Chernyy

Mr. Chernyy, 51, has complete loss of vision in his left eye due to a traumatic incident in 1986. The visual acuity in his right eye is 20/20, and in his left eye, no light perception. Following an examination in 2015, his optometrist stated, "This certifies in my medical opinion that Valentin Chernyy has sufficient vision in his right eye to perform the driving tasks required to operate a commercial vehicle." Mr. Chernyy reported that he has driven straight trucks for 14 years, accumulating 980,000 miles. He holds a Class O operator's license from Nebraska. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Danny R. Floyd

Mr. Floyd, 56, has had optic atrophy in his right eye since 2012 due to a traumatic

incident. The visual acuity in his right eye is no light perception, and in his left eye, 20/20. Following an examination in 2016, his optometrist stated, "In my medical opinion, Mr. Floyd's condition is stable and he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Floyd reported that he has driven tractor-trailer combinations for 30 years, accumulating 2.34 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Claudia E. Gerez-Bentacourt

Ms. Gerez-Bentancourt, 39, has had amblyopia in her right eye since childhood. The visual acuity in her right eye is 20/200, and in her left eye, 20/25. Following an examination in 2015, her ophthalmologist stated, "She was diagnosed with Amblyopia of right eye...She is able to perform all driving tasks that [sic] required by commercial vehicle." Ms. Gerez-Bentacourt reported that she has driven tractor-trailer combinations for 6 years, accumulating 420,000 miles. She holds a Class A CDL from Texas. Her driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Andy R. Junod

Mr. Junod, 62, has had a macular scar in his right eye since childhood. The visual acuity in his right eye is 20/70, and in his left eye, 20/15. Following an examination in 2016, his ophthalmologist stated, "I certify that the visual deficiency of this gentleman is stable and that in my medical opinion, based on the eye exam and his driving record which he verbally gives [sic] to me, that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Junod reported that he has driven

straight trucks for 5 years, accumulating 120,000 miles and tractor-trailer combinations for 34 years, accumulating 3.74 million miles. He holds a Class AM CDL from Texas. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Roger W. Kerns III

Mr. Kerns, 22, has had amblyopia in his right eye since childhood. The visual acuity in his right eye is 20/200, and in his left eye, 20/20. Following an examination in 2016 his optometrist stated, "In my medical opinion, Roger W. Kerns III has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Kerns reported that he has driven straight trucks for 2 years, accumulating 1,000 miles and tractor-trailer combinations for 2 years, accumulating 200,000 miles. He holds a Class A CDL from Iowa. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Gary C. Maxwell

Mr. Maxwell, 73, has had a pigment epithelia detachment in his left eye in 2000. The visual acuity in his right eye is 20/25, and in his left eye, 20/70. Following an examination in 2015, his ophthalmologist stated, "He has a history of an epiretinal membrane and pigment epithelial detachment of his left eye. He has been driving a commercial vehicle without difficulty for many years, and I feel that he can safely continue to do so without any concerns." Mr. Maxwell reported that he has driven straight trucks for 2 years, accumulating 80,000 miles and tractor-trailer combinations for 40 years, accumulating 12 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no crashes and no convictions for moving

violations in a CMV.

Scott A. Palmer

Mr. Palmer, 46, has had amblyopia in his left eye since childhood. The visual acuity in his right eye is 20/20, and in his left eye, 20/300. Following an examination in 2015, his optometrist stated, "In my medical opinion, Scott Palmer has sufficient vision to perform the driving tasks required to operate a commercial vehicle." Mr. Palmer reported that he has driven straight trucks for 20 years, accumulating 800,000 miles. He holds a Class B CDL from New York. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Richard G. Roberts

Mr. Roberts, 82, has had macular degeneration in his right eye since 2008. The visual acuity in his right eye is 20/200, and in his left eye, 20/25. Following an examination in 2015, his ophthalmologist stated, "The patient has been able to operate commercial vehicles safely for many years, including the last seven years after being treated for macular degeneration. There has been no worsening in that time, so I believe that patient can continue to operative [sic] the same types of vehicles at this time and for the foreseeable future." Mr. Roberts reported that he has driven straight trucks for 18 years, accumulating 140,400 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

Michael R. Tipton

Mr. Tipton, 61, has had macular atrophy in his left eye since childhood. The visual acuity in his right eye is 20/30, and in his left eye, 20/200. Following an

examination in 2015, his optometrist stated, "In summery Mr. Tipton in my opinion is more than able to meet the requirements visually for operation of a commercial vehicle." Mr. Tipton reported that he has driven tractor-trailer combinations for 15 years, accumulating 20,500 miles. He holds a Class A CDL from Illinois. His driving record for the last 3 years shows no crashes and no convictions for moving violations in a CMV.

### **III. Public Participation and Request for Comments**

FMCSA encourages you to participate by submitting comments and related materials.

#### **Submitting Comments**

If you submit a comment, please include the docket number for this notice, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and put the docket number FMCSA-2016-0025 in the "Keyword" box, and click "Search. When the new screen appears, click on "Comment Now!" button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and



would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period. FMCSA may issue a final determination at any time after the close of the comment period.

#### Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and insert the docket number FMCSA-2016-0025 in the “Keyword” box and click “Search.” Next, click “Open Docket Folder” button and choose the document listed to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

**Issued on: April 5, 2016.**

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Larry W. Minor,  
Associate Administrator for Policy.

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